IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 20887 of 2004

Between:

Jyothi Bhai, W/o.Raj Kumar Singh @ Laddu Singh,
R/o.14-10-956, Lower Dhoolpet, Hyderabad.

..... PETITIONER

AND

1 The Collector and District Magistrate, Hyderabad.
2 The Government of Andhra Pradesh, rep.by its Chief Secretary, Hyderabad.
3 The Superintendent of Central prison, Chanchalguda.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Habeas Corpus under Art 226 of the Constitution of India directing the Respondents to produce the detenu Sri Raj Kumar singh @ Laddu Singh, S/o.Late Kamal singh, now detained in Central Prison, Chanchalguda, before this Hon'ble Court and he may be ordered to be released forth with after declaring his detention as illegal and void.

Counsel for the Petitioner : MR.C.PRAVEEN KUMAR

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court, at the stage of admission, made the following :

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ORDER: (per Hon'ble Sri Justice Bilal Nazki)

Heard the learned Senior Counsel for the petitioner and also learned Advocate General appearing on behalf of the respondents.

The order of detention, dated 16-08-2004, has been challenged, by which, the detenu has been detained by the Collector and District Magistrate, Hyderabad.

The grounds of detention contained 14 grounds. Ground No.14 is as follows:-

> "On 8-8-2004, at about 4-45 P.M., on reliable information about the illegal possession & sale of I.D.Liquor at an open place opposite house No.14-10-986, Jhungurbasti, Lower Dhoolpet, Mr. A. Rajan Babu, Prohibition and Excise Sub Inspector, Dhoolpet, Hyderabad along with staff raided on the said place and seized 506 I.D.Liquor sachets. On enquiry, the local people revealed that the I.D. Sachets belongs to you. The Investigating Officer seized the contraband and drawn the samples, and a case was registered against you in C.O.R.No.334/04-05 of SHO, Dhoolpet, U/Sec.7A R/w 8(e) of A.P., Prohibition Act, 1995. Having committed the offence, you are absconding.
>
> The sample of I.D. Liquor drawn from the contraband seized was sent for Chemical Analysis and the Government Chemical Examiner report is awaited and the case is under investigation."

It is submitted by the learned Senior Counsel appearing for the petitioner that since the report of the chemical analyst was not available with the Government and it was not known whether the alleged liquor seized was liquor or not, this ground was irrelevant, as has been held by a Full Bench Judgment of this Court reported in ***S. Jayamma v. Collector and District Magistrate, Cuddapah*** and in para 16, this Court held as follows:-

> "The case on hand stands on a better footing; the reports are not yet received. Therefore, before the report of the analyst is received mentioning the same as one of the grounds of detention is to be held irrelevant and extraneous. It is also

beyond the place of controversy that if the detention order contains relevant and irrelevant grounds, the entire order of detention gets vitiated and it does not survive to the extent of relevant grounds. Under these circumstances, even on merits also we find that the order of detention is not sustainable, accordingly it is set aside."

Since one of the grounds is irrelevant and could not have been taken into consideration, therefore, the detention has to be struck down, in view of the Judgment reported in ***M.Ashok Goud v. Collector and District Magistrate, Nizamabad***, on the ground that the grounds of detention in terms of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders and Land Grabbers Act, 1986, are not separable.

Therefore, the writ petition is allowed and the detention order is hereby quashed. The respondents are directed to release the detenu forthwith, if he is not required in any other case.

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BILAL NAZKI,J

Dated:25-11-2004

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CH.S.R.K.PRASAD,J

GJ

To

1 The Collector and District Magistrate, Hyderabad.
2 The Chief Secretary, Government of Andhra Pradesh, Hyderabad.
3 The Superintendent of Central Prison, Chanchalguda.

4 Two C.Cs. to the Advocate General, High Court of A.P., Hyderabad. (OUT)

5 Two C.D. copies.